

LABOUR DEPARTMENT

The 20th April, 1995

No. 14/13/87-6Lab./550.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of M/s Secretary, Forest Department *versus* Raj Kumar.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 126 of 93

Date of Receipt : 16-7-93

Date of Decision : 13-3-95

SHRI RAJ KUMAR, S/O BHOLA RAM, VILLAGE AJITPURA, TEHSIL AND
DISTRICT BHIWANI

.. Applicant

versus

1. SECRETARY, FOREST DEPTT., HARYANA, CHANDIGARH

2. DIVISIONAL FOREST DEPT. BHIWANI

.. Respondent-management

Present :

Shri S. S. Gupta, for the workman.

Shri Sita Ram, ADA for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (for short, 'the Act') the Governor of Haryana referred the following dispute between Raj Kumar and the above mentioned management for adjudication to this Court,—*vide* Labour Department letter No. Bwn/11-92/22329—335, dated 24th June, 1993 :—

Whether termination of services of Raj Kumar, is justified and in order ? If not, to what relief is he entitled ?

2. According to the workman, he was appointed as Night watcher with effect from 1st March, 1991 and was posted at Ajitpura village. He further alleged that on 30th March, 1992, when he reported for duty, he was told that his services were not longer required. He claimed that this action of the management amounted to "retrenchment" in contravention of Section 25-F of the Act, and therefore, the same was illegal. He prayed for reinstatement, with full back wages and other consequential benefits.

3. The management, in its written statement, pleaded that the petitioner was engaged as labourer on daily wages against seasonal work and when the work was completed, he was removed from the job. It was further pleaded that the petitioner had not completed continuous service for 240 days and therefore, the petitioner is not entitled to any relief.

4. On the above pleadings of the parties, the following issues were framed on 3rd December, 1993 by my learned Predecessor :—

1. Whether termination of service of Raj Kumar is justified and in order ? If not, to what relief is he entitled ?

2. Relief.

5. The parties led evidence in support of their rival claims. I have heard Shri S. S. Gupta, authorised representative of the workman and Shri Sita Ram, ADA on behalf of the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1:

6. Raj Kumar, WW-1 appeared as his own witness and stated on oath that he was appointed on 1st March, 1991 as Night watcher and his service were terminated after 31st March, 1992 without giving him any notice and without paying him any retrenchment compensation. He tendered Ex. W-1 to Ex. W-11 in his evidence.

7. Rajinder Kumar was examined as MW-1 and he stated that the petitioner was engaged on 1st March, 1991 and had worked upto 29th March, 1992 as night watcher and thereafter he left the job himself. He adduced in evidence, the statement of working days of the workman as Ex. M-1. He admitted in his cross-examination that no retrenchment compensation was paid to the petitioner.

8. A perusal of Ex. M-1, would show that the petitioner had worked for 305 days during the period from 1st May, 1991 to 29th March, 1992 and thus, [he was protected under the provisions of the Act. The management was duty bound to comply with the provisions of Section 25-F of the Act before terminating his services. The management did not do so. The non-compliance of mandatory provisions of Section 25-F of the Act, has rendered the termination of services of the petitioner as illegal and the petitioner is not only entitled to reinstatement, but full back wages and other consequential benefits also.

9. The contention of the A. R. of the management that the petitioner had left the job himself, cannot be accepted, because the management has failed to produce any cogent evidence to prove its plea. Moreover, it was pleaded in para 5 (line 3-4) of the written statement that the petitioner was restrained to work after the completion of season. It, therefore, cannot be said that the petitioner had left the job himself.

10. In view of the above discussion, this issue is answered in favour of the workman.

Issue No. 2—Relief:

11. In view of my findings on the above issues, the termination of services of the petitioner is held illegal. The same is hereby set-aside. The petitioner is reinstated in the same post forthwith, with full back wages and other consequential benefits. The reference is answered accordingly, with no order as to costs.

The 13th March, 1995.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

Endorstment No. dated

A copy, with two spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour & Employment Department, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.